

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

PLANNED PARENTHOOD SOUTH ATLANTIC, on behalf of itself, its patients, and its physicians and staff, GREENVILLE WOMEN'S CLINIC, on behalf of itself, its patients, and its physicians and staff, TERRY L. BUFFKIN, M.D., on behalf of himself and his patients,

Plaintiffs,

v.

ALAN WILSON, in his official capacity as Attorney General of South Carolina; EDWARD SIMMER, in his official capacity as Director of the South Carolina Department of Health and Environmental Control; ANNE G. COOK, in her official capacity as President of the South Carolina Board of Medical Examiners; STEPHEN I. SCHABEL, in his official capacity as Vice President of the South Carolina Board of Medical Examiners; RONALD JANUCHOWSKI, in his official capacity as Secretary of the South Carolina Board of Medical Examiners; JIM C. CHOW, in his official capacity as a Member of the South Carolina Board of Medical Examiners; GEORGE S. DILTS, in his official capacity as a Member of the South Carolina Board of Medical Examiners; DION FRANGA, in his official capacity as a Member of the South Carolina Board of Medical Examiners; RICHARD HOWELL, in his official capacity as a Member of the South Carolina Board of Medical Examiners; THERESA MILLS-FLOYD, in her official capacity as a Member of the South Carolina Board of Medical Examiners; JENNIFER ROOT, in her official capacity as a Member of the South Carolina Board of Medical Examiners; CHRISTOPHER C. WRIGHT, in his official capacity as a Member of the South Carolina Board of

Civil Action No.: 3:21-cv-00508-MGL

Medical Examiners; SCARLETT A. WILSON, in her official capacity as Solicitor for South Carolina's 9th Judicial Circuit; BYRON E. GIPSON, in his official capacity as Solicitor for South Carolina's 5th Judicial Circuit; and WILLIAM WALTER WILKINS III, in his official capacity as Solicitor for South Carolina's 13th Judicial Circuit,

Defendants,

v.

HENRY MCMASTER, in his official capacity as Governor of the State of South Carolina; and G. MURRELL SMITH, JR., in his official capacity as Speaker of the South Carolina House of Representatives,

Intervenor-Defendants.

**EMERGENCY SUPPLEMENT TO EMERGENCY MOTION TO STAY
PRELIMINARY INJUNCTION PENDING APPEAL**

Immediately after the Supreme Court held in *Dobbs v. Jackson Women's Health Organization* that the U.S. Constitution does not provide a right to elective abortions and that the authority to regulate abortion belongs to the people and their elected representatives, Intervenor-Defendants Henry McMaster and G. Murrell Smith, Jr. and Defendants Alan Wilson and William Walter Wilkins III (collectively, "Defendants") moved this Court for an emergency stay of its preliminary injunction. ECF No. 137. This Court ordered Plaintiffs to respond to Defendants' emergency motion by Monday at 9:00 a.m. ECF No. 139. Late Friday, Plaintiffs all but conceded that a stay is required by seeking to dismiss their entire action. ECF No. 141. Plaintiffs' motion raises significant legal questions and will be addressed in due course. But the Court must immediately stay, if not vacate, its preliminary injunction, both because the merits are beyond dispute and because Plaintiffs' recent conduct indicates that they intend to expedite abortions while

the injunction remains in effect. This Court’s preliminary injunction is now squarely at odds with Supreme Court precedent, and the Court should not abide or enable any such bad faith efforts to violate the South Carolina Fetal Heartbeat and Protection from Abortion Act (“Act”) while still enjoining Defendants from enforcing the same.

Since Defendants filed their emergency motion to stay the preliminary injunction, Plaintiffs have publicly announced their intention to perform as many abortions as possible, which would include abortions prohibited by the Act. Planned Parenthood South Atlantic told the media that “abortions will continue” and that their Columbia abortion center “will be open again next week with abortions available on four days instead of the usual two.” Tom Corwin & Seanna Adcox, *Supreme Court strikes down national abortion right but still legal in SC, for now*, Post & Courier (June 24, 2022). In other words, with full knowledge that their conduct violates state law¹ and is not protected by the federal Constitution, Plaintiffs are continuing to engage in that conduct at an even faster rate. This behavior makes a mockery of the judicial process and disentitles Plaintiffs from an opportunity to respond to Defendants’ emergency stay motion. Plaintiffs’ bad faith conduct also inflicts untold harms on innocent life.²

Defendants are entitled to an immediate stay. Particularly in light of Plaintiffs’ recent request to abandon their challenge to the Act, this Court cannot maintain its preliminary injunction of the Act but must allow the State’s valid law to take immediate effect.

¹ See ECF No. 67, at 8 (Plaintiffs’ argument in support of preliminary injunction: “SB 1 would force [Plaintiffs] either to stop providing abortions or confront criminal liability and license revocation.” (cleaned up)); ECF No. 5-3 ¶ 47 (sworn testimony from Planned Parenthood Chief Medical Officer: “the Act would force PPSAT to stop providing nearly all, if not all, previability abortion in South Carolina”).

² Plaintiffs may be subject to future liability for this conduct. *Cf. Edgar v. MITE Corp.*, 457 U.S. 624, 653 (1982) (Stevens, J., concurring) (“There simply is no constitutional or statutory authority that permits a federal judge to grant dispensation from a valid state law.”).

Respectfully submitted,

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